

### **REMARKS**

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 45-63 are currently pending, with Claims 45 and 58-63 being independent. Claims 45-57 and 59-62 have been amended; and new Claim 63 has been added by the present amendment. No new matter has been added.

#### **Office Action Summary**

Claims 45-62 were objected to over informalities, specifically for reciting the character “/”; and Claims 45-62 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,993,553 to Kaneko et al. (hereinafter “Kaneko”) in view of U.S. Publication No. 2004/0243688 to Wugofski (hereinafter “Wugofski”).

#### **Interview Summary**

First, Applicants wish to thank Examiner Tiv and Primary Examiner Phillips for the courtesy of a personal interview granted to Applicants’ representatives on June 23, 2010. During the interview, proposed amendments to Claim 45 were discussed, and the Examiner indicated that such amendments appear to overcome the outstanding rejections. Accordingly, the claims are amended largely as discussed during the interview, with some minor modifications for purposes of clarity. In addition, the Kaneko reference was discussed at length, and arguments presented during the interview regarding Kaneko are largely repeated below.

#### **Objections to the Claims**

The Claims 45-57 and 59-62 have been amended to remove the “/” character. With respect to Claim 58, Applicants submit that the character “/” is used as part of a name of an element - the “editing/creating” unit, and as such does not require amendments to recite “or”

instead of “/”. Further, as stated in MPEP 2173.05(a), it is well established that an Applicant “is free to be his or her own lexicographer,” thus properly allowing the use of the term “editing/creating unit.” Accordingly, Applicants respectfully request that the objections to the claims be withdrawn.

### **Objections to the Specification**

The Office Action summary sheet indicates that the specification was objected to, but the Office Action itself does not specifically point out how the specification is a defective. The Office Action does present suggestions and recommendations for adding various section headings to the specification, but those are not required. Accordingly, Applicants respectfully request that the objection to the specification (if any is outstanding) be withdrawn.

### **Rejection of Claims 45-62 under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejection of Claims 45-62 under 35 U.S.C. § 103(a), because Wugofski is not prior art to the claims.

Specifically, the present application is a national stage of PCT/JP2004/016122 filed on October 29, 2004, which claims priority from Japanese Patent Application No. 2004-093023, filed on March 26, 2004. In accordance with 37 CFR §1.55(a)(4), enclosed please find an English translation of the certified copy of this application, along with a statement that the translation of the certified copy is accurate. It is respectfully submitted that the enclosed documents perfect the claim to priority to Japanese Patent Application No. 2004-093023 under 35 U.S.C. § 119. Thus, the effective filing date of the present application is March 26, 2004, which pre-dates the filing date of April 6, 2004 (and publication date of December 2, 2004) of Wugofski. Therefore, Wugofski is not prior art under 35 U.S.C. §§ 102(a), (b), or (e). Therefore, Wugofski cannot be used as a reference under 35 U.S.C. § 103(a). Accordingly,

Applicants respectfully request that the rejection of Claims 45-62 under 35 U.S.C. § 103(a) over Kaneko in view of Wugofski be withdrawn.

Further, Applicants respectfully note that although Wugofski is based on provisional application 60/475,060 filed on May 30, 2003, **the provisional application does not support those portions of Wugofski that were applied by the Office Action.** Therefore, the earliest effective prior art date of those portions of Wugofski is April 6, 2004.

**Amendments of Claims 45-57 and 59-62**

Although the current rejection under 35 U.S.C. § 103(a) is addressed above (and overcome by perfecting the claim to foreign priority), Claims 45-57 and 59-62 have been amended for purposes of clarity, and to bring the claims in line with suggestions discussed during the interview. Specifically, the Kaneko reference was discussed during the interview and amendments to Claim 45 were discussed to better distinguish from Kaneko. The following discussion is provided to aid the Examiner in recognizing differences between the claims and Kaneko.

Briefly summarizing, amended Claim 45 recites a data processing device including an obtaining unit and a message editing and creating unit. The obtaining unit is configured to obtain first data. The first data includes a plurality of items of information including (1) message creation supporting information for guiding a user in inputting at least one of text, image, sound, and movie to be included in message data, and (2) message browsing information for presenting the message data for a user's perception. The message editing and creating unit is configured to edit the message browsing information included in the first data based on the information included in said message creation supporting information. Further, message editing and creating unit is also configured to create second data including the plurality of items of the information

including the message creation supporting information and the edited message browsing information. Furthermore, each of the plurality of items of information included in the first and second data is a component of one or both of the message creation supporting information and the message browsing information.

Thus, as discussed during the interview, amended Claim 45 recites that message creation supporting information (MCSI) is information *for guiding a user in inputting at least one of text, image, sound, and movie to be included in message data* and that message browsing information (MBI) is information *for presenting the message data for a user's perception*. Examples of such information were discussed during the interview with reference to Applicants' figures. Further, the message editing and creating unit *edits the MBI based on the MCSI*, and *creates* second data which includes the MCSI *and edited MBI*.

Turning now to Kaneko, this reference describes a messaging system which is paid for by advertising, and the advertising is viewed by the sender of a message rather than the recipient of the message. When a user (sender) wishes to send a message, the user must view an advertisement card, illustrated in Fig. 5 of Kaneko. Advertisement cards are provided by a server, or can be received from other users. The advertisement card includes an advertisement image 15, which the user can replace with a different image. Thus, the user modifies the advertisement card (after having viewed the advertisement) and sends the modified card as a message to the recipient, with the different image. The recipient of the modified card does not see the advertisement image upon receipt of the card.

Applicants respectfully submit that Kaneko lacks at least an editing and creating unit as recited in amended Claim 45. Specifically, regardless of how the advertisement cards of Kaneko are interpreted, the system of Kaneko lacks at least the features highlighted above, namely that

*message editing and creating unit edits the MBI based on the MCSI, and creates second data which includes the MBI and edited MCSI.* Furthermore, the relationships between the MBI, MCSI, first data, and second data, as clarified in amended Claim 45, are also lacking in Kaneko.

Independent Claims 69-62 are amended similarly, and the dependent claims are amended for consistency with the independent claims.

### **New Claim 63**

New Claim 63 has been added to vary the scope of patent protection. Claim 63 recites, *inter alia*, similar features to those recited in amended Claim 60, but recast as an apparatus claim. Therefore, Claim 63 is believed to define over any proper combination of the applied references. Furthermore, it is noted that the effective prior art date of Wugofski renders Wugofski inapplicable as prior art against Claim 63.

### **Finality of subsequent Office Action**

Since Applicants have not amended independent Claim 58 in response to any rejection on the merits, a further rejection of this claim based on newly cited prior art in the next Office Communication **cannot properly be considered a Final Office Action.**

**Conclusion**

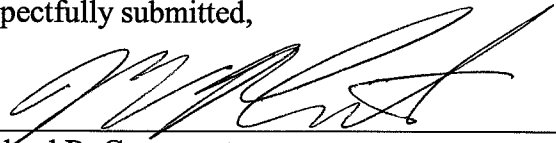
In view of the above amendment and the foregoing remarks, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact George S. Dolina, Registration No. 63,654 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

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Respectfully submitted,

By 

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**Attachments:**

1. Statement that the attached translation is accurate
2. Translation of JP2004-093023